

1 MATTHEW J. HAFNEY (SB # 167122)
2 NEMECEK & COLE
3 A Professional Corporation
4 15260 Ventura Blvd., Suite 920
5 Sherman Oaks, California 91403
6 Telephone: 818-788-9500
7 Facsimile: 818-501-0328

5 Attorneys for Plaintiffs
FILLMORE CONVALESCENT CENTER, LLC, and
6 A. EDUARDO GONZALEZ, an individual

7

8

UNITED STATES DISTRICT COURT,

9

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

10

11 FILLMORE CONVALESCENT
12 CENTER, LLC, a California limited
liability company; A. EDUARDO
GONZALEZ, an individual.

15

Plaintiffs

14

VS.

15

16 CONTINUING CARE RISK
17 RETENTION GROUP, INC., a
corporation; MAGNOLIA LTC
18 MANAGEMENT SERVICES, INC., a
California corporation; MARIA
19 ARELLANO, by and through her
guardian ad litem JOSE ANGEL
ARELLANO and DOES 1 through 15
inclusive.

20

Defendants.

) Case No. 11CV4185-MMM (PWx)

**[PROPOSED] ORDER REMANDING
TO THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA, COUNTY
OF VENTURA**

21

22

23 WHEREAS on May 16, 2011, defendants CONTINUING CARE RISK
24 RETENTION GROUP, INC. (“CCRRG”) and MAGNOLIA LTC MANAGEMENT
25 SERVICES, INC. (“MAGNOLIA”) removed this matter from the Ventura County
26 Superior Court pursuant to 28 U.S.C. § 1332 (diversity jurisdiction) or, alternatively,
27 28 U.S.C. § 1331 (Federal question jurisdiction); and

28 | / / /

1 WHEREAS in support of Defendants' Notice of Removal, CCRRG took the
2 position that it was a "citizen" of South Carolina for purposes of diversity; and

3 WHEREAS in support of Defendants' Notice of Removal, MAGNOLIA took
4 the position that it had been joined as a "sham" defendant, asserting that MAGNOLIA
5 was not a party to the insurance agreement at issue in this lawsuit and could not be
6 sued as the "alter ego" of CCRRG; and

7 WHEREAS in support of Defendants' Notice of Removal, they also asserted that
8 this matter arises under the Federal Liability Risk Retention Act, 15 U.S.C. § 3901 *et*
9 *seq.* and confers upon the Court Federal question jurisdiction pursuant to 28 U.S.C. §
10 1331; and

11 WHEREAS on June 9, 2011, this Court issued an Order Granting Plaintiff's
12 Motion to Remand in a related case, *Arellano v. CCRRG et al.*, U.S.D.C. Case No.
13 2:11CV1058 MMM (Pwx) (the "Arellano Federal Action") and determined that (a)
14 CCRRG was a California "citizen" for purposes of diversity jurisdiction; (b)
15 MAGNOLIA, a California citizen, had not been fraudulently joined as a defendant; and
16 (c) the Federal Liability Risk Retention Act as applied to this case does not confer
17 Federal question jurisdiction on the Court; and

18 Having considered the Stipulation of counsel and GOOD CAUSE APPEARING
19 THEREFORE, it is hereby ORDERED as follows:

20 1. This matter shall be remanded forthwith to the Superior Court of the State
21 of California, County of Ventura, and placed back on that Court's docket under the
22 original Case No., 56-2011-00394088;

23 2. The Clerk of the Court shall transmit a certified copy of this Order to the
24 Clerk of the Superior Court, along with certified copies of the Court's file;

25 ///

26 ///

27 ///

28 ///

1 3. The Answer filed May 27, 2011 by CCRRG and MAGNOLIA shall serve
2 as the Answer in the Superior Court pursuant to *Laguna Village, Inc. v. Laborers'*
3 *Internat. Union of North America* (1983) 35 Cal.3d 174.

4

5 Dated: June 15, 2011

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28


MARGARET M. MORROW
UNITED STATES DISTRICT JUDGE